



**MARICOPA COUNTY SPECIAL HEALTH CARE DISTRICT
VALLEYWISE HEALTH**

**REQUEST FOR QUOTATION
ELECTRICAL SERVICES
90-20-150-RFQ**

DATE OF ISSUE: APRIL 17, 2020

DEADLINE FOR INQUIRIES: MAY 1, 2020 @ 11:00AM PHOENIX, AZ. TIME

DATE & TIME PROPOSALS DUE: MAY 12, 2020 @ 11:00AM PHOENIX, AZ. TIME



REQUEST FOR QUOTATION

90-20-150-RFQ

OFFER AND ACCEPTANCE

Request for Quotation No: **90-20-150-RFQ**

Due Date: **May 12, 2020**

Electrical Services

Time: **11:00AM**

Location: Valleywise Health Contracts Management

Contact:

Mailing Address: 2601 E. Roosevelt, Phoenix, AZ 85008

Phone: **(602) 344-1403**

By signing below, the Proposer hereby certifies that:

They have read, understand, and agree that acceptance by Valleywise Health of the Proposer's offer by the issuance of a purchase order or contract will create a binding contract; They agree to fully comply with all terms and conditions as set forth in the Valleywise Health Procurement Code, and amendments thereto, together with the specifications and other documentary forms herewith made a part of this specific procurement;

The person signing the Proposal certifies that he/she is the person in the Proposer's organization responsible for, or authorized to make, decisions regarding the prices quoted. The Proposer is a corporation or other legal entity.

No attempt has been made or will be made by the Proposer to induce any other firm or person to submit or not to submit a Proposal in response to this RFQ.

- All amendments to this RFQ issued by Valleywise Health have been received by the person/organization below. All amendments are signed and returned with the Proposal.
- No amendments have been received.

The price and terms and conditions in this Proposal are valid for 180 days from the date of submission.

Vendor Quotation

Company Name: _____

Contractor FEIN/SSM: _____

Company Account Manager

Payment Terms: net 45 days

Address

City

State

Zip Code

Telephone:

Email:

Date

Authorized Signature

Typed Name

Title

ACCEPTANCE OF OFFER AND CONTRACT AWARD (For Valleywise Health Use Only)

Your offer is hereby accepted. The Contractor is now bound to sell the materials and/or services listed by the attached award notice based upon the solicitation, including all terms conditions, specifications, amendments, etc., and the Contractor's offer as accepted by the District. The Contractor is hereby cautioned not to commence any billable work or provide any material, service or construction under this contract until Contractor receives an executed **Purchase Order**.

Approve By:

Date: _____

Contract Number: 90-20-150-__

This is NOT a Purchase Order

Contract Term:

Effective Date:

Expiration Date



**REQUEST FOR QUOTATION
SCOPE OF WORK**

90-20-150-RFQ

SCOPE OF WORK:

Introduction

Maricopa County Special Health Care District dba Valleywise Health hereby solicits quotations from qualified respondents to provide

General

1. The intent of this Request for Quote (RFQ) and resulting contract is to obtain the services of a licensed electrical contractor(s) to provide electrical services for Valleywise Health owned/leased facilities located in the Phoenix Metropolitan area on an "as/if needed" basis. The successful Contractor must have sufficient resources to respond to more than one job at a time, if the need arises.

The successful Contractor shall provide all labor, materials, equipment and incidentals necessary to diagnose, perform maintenance, repair, renovations, demolition, disconnect and remove existing equipment and material rendered obsolete to alterations, installation or alteration of electrical systems including lighting, power, electrical related fixtures, computer and telephone wiring and any other components requested by Valleywise Health of low voltage through 12470V electrical projects. Work may be performed on the exterior or interior of buildings. Valleywise Health will reimburse the Contractor at cost plus 3% mark up on materials and rental equipment \$1.00 - \$10,000.00, 2% Markup on materials needed for repairs. \$10,000.01 - \$50,000.00 and 1% markup on materials that exceed \$50,000.00. This markup is for supplies only, original itemized receipts must be submitted with every invoice for payment. If invoices are not provided, payment may be withheld. The % will be determined at the end of the project when all receipts are tallied by the contractor and approved by Valleywise Health.

2. Projects shall include, but not limited to, adding additional circuits, replacing panels and sub-panels, adding dedicated lines and grounds, replacing motors, running telephone and computer wiring, installing exterior/exterior lighting and all other electrical work required by Valleywise Health. This work is to be performed by the Contractor on a time and material basis.
3. All work shall be performed according to the standards of the electrical code as adopted by the State of Arizona and to the complete satisfaction of Valleywise Health. Valleywise Health will be responsible for any applicable fees associated with work requiring a local permit or inspection. The Contractor shall be responsible for advising Valleywise Health when a permit or inspection is needed. The Contractor shall schedule any/all needed inspections.
4. All work shall be scheduled at the convenience of Valleywise Health as not to interfere with day to day business.



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5. Payment shall only be made or productive hours at the job site. Time spent for transportation of workers, material acquisition, handling and delivery, or for movement of Contractor owned or rental equipment is not chargeable directly but is overhead and the cost shall be included in the hourly rate bid for basic labor. The hourly rate charged for any work performed after regular business hours of 7:00 am to 6:00 pm Monday through Friday, on weekends or holidays shall not exceed 1.5 times the basic hourly labor rate for the individual performing the service. Work shall be billed in 15 minute increments.
6. Contractor shall not subcontract any portion of the electrical work required under this contract, the only exception allowed will be for High Voltage and communications work All other work must be performed by the Contractor's work forces.
7. All work shall be done in a safe manner and comply with all governing regulations concerning safety. This shall include, but not limited to OSHA, etc. Adequate barricades shall be erected and maintained around all areas where equipment and materials are stored and used. All work being performed for and/or on Valleywise Health property shall fully conform to all local, county, state and federal safety regulations.
8. It shall be the responsibility of the Contractor performing services for this contract to safeguard their own materials, tools, and equipment. Valleywise Health shall not assume any responsibility for vandalism and/or theft of materials, tools and/or equipment.
9. The Contractor shall obtain the permission of a Facilities Management representative regarding any needed storage of materials and equipment. Such storage shall be done in such a manner as not to interfere with the schedule for that building. Valleywise Health shall not accept responsibility for losses of material or equipment regardless of approval to store in any of the facilities or grounds.
10. All work areas shall be kept in orderly condition, free of unnecessary material and equipment. All debris will be picked up and hauled away by the Contractor. No additional charge for hauling away debris shall be permitted under the contract, Contractor shall not Dump debris in Valleywise Health Dumpsters or trash receptacles.

General Requirements

1. Visit the Project Site and thoroughly investigate existing conditions prior to submitting a Bid on the specific project (non-emergency).
2. All Work shall be performed by trades people highly skilled in the work required. All affected areas shall be restored to the original or better condition to the satisfaction of Valleywise Health. No additional charges will be allowed for failure to include all labor, supplies, etc., that is required for this Work. Work required in existing "finished" areas must be coordinated with Valleywise Health to assure minimal disruption of normal activities.



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3. Remove and install existing ceilings as required to install new conduits, boxes and other material for this Work.
4. Contractor shall be responsible for all cut, patch and refinish the existing construction.

Minimum Qualifications

1. All Contractors shall provide documentation with their bid submission that they meet/exceed the minimum qualifications stated herein. **Failure to provide this documentation may result in the Quote being deemed non-responsive and not considered.**
2. Contractor shall employ at least two (2) Arizona Licensed Master Electricians. Contractors shall include a list of employees, title, years of electrical experience, years of service with the business and license numbers.
3. Contractor shall own and have in good repair all vehicles, tools and equipment necessary to perform electrical work described herein.
4. Contractors shall include a list of at least three (3) current references for which comparable work has been performed within the last two years. This list shall include company name, contact person, address, telephone number and email address. A section for references is provided on the Bid Proposal Page.

Maintaining Services

- A. Existing services cannot be interrupted during normal working hours.
- B. In the event that any services must be interrupted, it shall be done only with the written consent of Valleywise Health, and only for the date and duration mutually agreed upon.
- C. Provide adequate temporary services as may be required, including standby generators if deemed necessary.
- D. Coordinate Work with Valleywise Health to ascertain mutually agreeable schedules.
- E. Provide a copy of each document indicating approval of each schedule signed by the Owner.

Load Summary

- A. Prior to beginning any of the Work, prepare Drawings, Data and Details of the proposed installation, and submit same in reproducible form to Valleywise Health for review. Such documentation shall include, but not be limited to, the following:
 1. One Line Diagrams with all material, equipment and wiring sized.
 2. Floor Plans indicating new conduit routing, panel locations, new branch circuit load locations and applicable details.
 3. Panel board Schedules indication over-current protective device types, quantities, ratings and loads on each circuit as well as total loads.
 4. Voltage Drop calculations.



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5. Load calculations for each feeder and over-current protective device, including demand factors used, if any. Indicate applicable Code Section and paragraph for each instance.
 6. Wiring diagrams/schematics for new loads being added.
- B. At the completion of the Work, upon acceptance by Valleywise Health and prior to final payment, submit "as installed" drawings and corrected, up-dated calculations to Valleywise Health. Such documentation shall be in reproducible form.
- C. Provide up-dated (or new, as applicable) circuit directories for each panel board. Directories shall indicate the load description and location of the load for each circuit and shall identify the source of power supply.

Material and Equipment

- A. Hourly rates listed on the pricing page must include all overhead and profit. Additional charges for basic tools, equipment and shop supplies will not be allowed.

Scheduling Work

- A. All Work must be performed in accordance with the schedule established for this Work in cooperation with Valleywise Health and the other trades to allow for a speedy and efficient completion of the Project.
- B. Provide the other trades with advance information on locations and sizes of frames, boxes, sleeves, openings, etc. needed for new work.

Provide the other trades with information and shop drawings necessary to permit the trades affected to install their work properly and without delay.

Project Estimates

1. Contractor shall provide written "not to exceed" estimates on all projects except for emergencies. This estimate shall include the estimated number of hours, contract hourly rate, number and type of employees required, estimated material cost and project completion in number of days. Contractor shall respond to requests for estimates for non-emergency work within two (2) days and provide written estimates within five (5) days of first contact by Valleywise Health. It shall be the Contractor's responsibility to ensure they have all information to prepare accurate estimates.
2. Non-emergency work shall only be performed with Valleywise Health written authorization by issuance of a Work Order from the Facilities Department. Actual work shall not exceed the Contractor's estimate without prior written authorization by Valleywise Health.
3. Valleywise Health shall not to pay for the cost of walkthroughs or preparing estimates for projects.



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Employees

1. If any person employed on a project by the Contractor shall appear to Valleywise Health to be incompetent or act in a disorderly or improper manner, such person shall be removed immediately on the request of Valleywise Health. Valleywise Health has the final determination as to removal.
2. All employees of the Contractor shall be in a company uniform that clearly identifies the name of the company and the name of the employee. The uniforms shall be clean and neat in appearance. All employees working at Valleywise Health facilities will be required to obtain and display a visitor's pass from the Facilities Department.
3. Absolutely no workers other than the Contractors employees are authorized on the jobsite, this includes but not limited to family members, friends, etc.

Response Time and Contact Information

1. Non-emergency projects: Contractor shall provide Valleywise Health with a contact person's name and telephone number for normal working hours, 7:00 am to 6:00 pm, Monday through Friday, non-emergency response time shall be 4 hours on-site after contractor receives the request. If the contact information is different for after hours and weekends, Contractor shall provide this information as well. Answering machines are unacceptable as a point of contact. The Contractor shall complete each non-emergency job within the time specified in the project estimate.
2. Emergency projects: Contractor shall have crews available 24 hours per day, 365 days per year. For the purpose of this bid, an emergency is defined as any condition(s) which is a threat to health, welfare or the safety of people and/or property or a condition that will affect an essential service(s) as determined by a representative of the General Services Department. Contractor shall respond on-site to requests for emergency service calls within two (2) hours after notification. For emergency calls, outside normal working hours (evenings, weekends and/or holidays), the Contractor shall provide a contact person's name and telephone number or have a voice mail paging or answering service. Contractors using a voice mail paging or answering service in lieu of a contact person shall be required to initiate a call back to Valleywise Health within 15-25 minutes.



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HOW TO RESPOND TO THIS RFQ: To respond to this Request for Quotations, the Offeror must:

Submit a quotation not to exceed ten (10) pages describing how you would perform Electrical Services on behalf of Valleywise Health. (Preprinted company brochures may be submitted as attachments and won't count toward the maximum number of pages). The quotation must contain sufficient detail to allow Valleywise Health to make an informed and realistic evaluation of the Offeror's services.

Submit with your quotation the following that apply:

1. License, certification(s), vehicle registrations, etc.
2. Certificates of insurance for:
Commercial general liability
Vehicle liability
Worker's compensation
Professional liability
Current W-9
OSHA TCIR rates - Only for Contractors on Valleywise Health grounds more than 500hr per quarter.

As the OSHA Voluntary Protection Programs (VPP) Star site, Valleywise Health requires all contractors/subcontractors working on projects for Valleywise Health shall have an average annual Total Case Incident Rate ("TCIR") and Days Away, Restricted, or Transferred ("DART") Rate at or below the contractor's national industry standard rate for the preceding twelve (12) month period.

3. Written business history/ professional qualifications submitted for review process.
4. Pricing.



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EVALUATION: Representatives of Valleywise Health will evaluate the quotations and determine which quotations are acceptable and which are unacceptable for further consideration. If multiple quotations are determined to be acceptable for further consideration, Valleywise Health reserves the option to call for and enter into discussions (interviews) with the firms considered most likely to meet the requirements for the purpose of negotiations, on pricing and/or other portions of the quotations, if considered by Valleywise Health to be in the best interest of Valleywise Health.

The evaluation criteria are listed below in relative order of importance.

Valleywise Health’s assessment of the Offerors:

1. **Abilities:** to meet and satisfy the needs of Valleywise Health, taking into consideration additional services, specialized services, or expertise offered that exceed the requirements, or the vendor’s inability to meet some of the requirements of the specifications.
2. **Cost:** while cost is the most significant factor in considering the placement of the awards, it is not the only factor. The award will not be based on price alone, nor will it be based solely upon the lowest fees submitted.
3. **Qualifications:** to provide Valleywise Health with these services for the required period of time, appropriate staffing, provide necessary resources and show a history of demonstrated competence in providing these services to other like healthcare institutions.
4. **Response to the quotations** in clearly stating and understanding the scope of work.

CODE: The Valleywise Health Procurement Code governs this procurement and is incorporated by this reference ([http://mihs.org/uploads/sites/19/District Procurement Code - Revised Eff 04-23-2015.pdf](http://mihs.org/uploads/sites/19/District_Procurement_Code_-_Revised_Eff_04-23-2015.pdf)). Pricing on written quotations is to remain confidential until the transaction is complete, i.e., the purchase order is issued. The respondent understands that the successful respondent is to be an Independent Contractor in the performance of work and the provision of services under any contract issued and is not to be considered an officer, employee, or agent of Valleywise Health. This announcement does not commit Valleywise Health to award a contract or to pay any costs incurred in the preparation of quotations. Valleywise Health reserves the right to accept or reject, in whole or in part, all quotations submitted and/or to cancel this announcement. Valleywise Health reserves the right to award more than one contract based upon the quotation(s) most advantageous to Valleywise Health, price and other factors considered. Valleywise Health reserves the right to reject any or all offers and to negotiate changes in the quotations or best and final offers.

INQUIRIES: Direct all inquiries to Mary Hammer at mary.hammer@valleywisehealth.org.

DEADLINE FOR RESPONSE: Quotations must be received no later than May 12, 2020 @ 11:00AM Phoenix, Arizona Time.

Quotations may be e-mailed to Mary Hammer at mary.hammer@valleywisehealth.org, emailed submissions must contain an attachment size of 5MB or less to ensure receipt by Contracts Management. If a larger attachment is needed, multiple emails with a fragmented response may be sent, but this must be clearly indicated in the email subject line (i.e., Response 1 of 2, Response 2 of 2). Respondents assume all risk with the delivery of quotations and it is strongly suggested that Respondents ensure that delivery of quotations have been received by Contracts Management before the deadline. Hard copies are not required. If respondent chooses to submit a hard copy one



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(1) soft copy of scanned copy of the completed and signed original proposal in Adobe PDF format on CD or flash drive, must be physically in the possession of Contracts Management at the address above before the due date and time. Proposers assume all risk associated with deliveries of proposals.

INQUIRIES:

Questions concerning this Request for Quotations may be submitted to Mary Hammer via e-mail at mary.hammer@valleywisehealth.org. Written questions concerning this Request for Quotations package should receive no later than May 1, 2020 @ 11:00AM Phoenix, Arizona Time. **Direct contact with any Valleywise Health personnel associates with this procurement other than the Procurement Officer Mary Hammer, is not allowed beginning with the issuance of this document through contract award.** Failure to comply with this requirement can and will cause disqualification. Exceptions to this requirement involves firms already performing services for Valleywise Health, allowing for discussions necessary for completion of services under existing contracts. Inquiries may be submitted by telephone but must be followed up in writing. No oral communication is binding on Valleywise Health. Answers to the written questions submitted by Respondents concerning the RFQ will be provided in the form of an Addendum via the Valleywise Health website.

It is the responsibility of all potential Respondents to check the Valleywise Health web site for any Addendums to the RFQ and to ensure signed Addenda are included in their response to the Solicitation.

1. **Submission:** Quotations shall be signed and received by the due date and time, as designated on the Quotation.
2. **Authority:** This Solicitation as well as any resultant contract is issued under the authority of the Director, Procurement & Contracts. No alteration of any resultant contract may be made without the express written approval of the Director, Procurement & Contracts in the form of an official contract amendment. Any attempt to alter any contract without such approval is a violation of the contract and the District Procurement Code. Any such action is subject to the legal and contractual remedies available to the District inclusive of, but not limited to, contract cancellation, suspension and/or debarment of the contractor.
3. **Opening:** A formal public opening will not be held for this quotation. However, all information may be publicly reviewed after award.
4. **Offer Acceptance Period:** In order to allow for an adequate evaluation, the District requires an offer in response to this Solicitation to be valid and irrevocable for 90 days after the opening time and date.
5. **Term of Contract:** The term of any resultant contract shall commence on Contract Approval and shall continue for a period of three (3) years, with the option to extend for additional periods up to a maximum contract term of five(5) years, thereafter, unless terminated, cancelled or extended as otherwise provided herein.
6. **Price Adjustment:** The Valleywise Health, Contracts Administration will review fully documented requests for price increases after the contract has been in effect for 365 days. The requested price increase must be based upon a cost increase that was clearly unpredictable at the time of the offer and can be shown to directly affect the price of the item concerned. The Valleywise Health, Contracts Administration will determine whether the requested price increase, or an alternative option, is in the best interest of the District. The contractor shall likewise offer any published price reduction to the District concurrent with its announcement to other



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customers. Advanced 30 day written notification by the contractor is required for any price changes. All price adjustments will be effective on the first day of the month following approval or acceptance by the Valleywise Health, Contracts Administration.

7. **Price Reduction:** A price reduction adjustment may be offered at any time during the term of a contract and shall become effective upon notice.
8. **Discussions:** In accordance with the Valleywise Health Procurement Code, after the initial receipt of proposals, discussions may be conducted with offerors who submit proposals determined to be reasonably susceptible of being selected for award.
9. **Taxes:** The Valleywise Health is exempt from Federal Excise Tax, including Federal Transportation Tax. Sales Tax, if any, should be indicated as a separate item.
10. **Quotation Rejection:** Valleywise Health reserves the right to reject any, or all, quotations, combinations of items, or lot and to waive defects or informalities.
11. **Brand Names:** Any manufacturer's names, trade names, brand names, or catalog numbers used in the specifications are for the purpose of describing and establishing the general quality level, design and performance desired. Such references are not intended to limit or restrict bidding by other vendors but are intended to approximate the quality design or performance which is desired. Any bid which proposes like quality, design or performance will be considered. Equivalent products will be considered, provided a complete description and product literature is provided. Unless a specific exception is made, assumption will be that the item is bid exactly as specified on the Request for Quotation.
12. **Erasures:** Erasures, interlineations or other modifications shall be initialed by the individual signing the Request for Quotation.
13. **Unit Price:** In case of error in the extension of prices, the unit shall govern. No Quotation shall be altered, amended or withdrawn after the specified date and time for receiving Quotations. Negligence by the Vendor in preparing the Quotation confers no right for the withdrawal of the Quotation after it has been opened.
14. **New:** All items shall be new, unless otherwise stated in the specifications.
15. **Payment:** The Valleywise Health will make every effort to process for the purchase of goods or services within thirty (30) calendar days after receipt of goods or services and a correct notice of amount due, unless a good faith dispute exists as to any obligation to pay all or a portion of the account. Any bid that requires payment in less than thirty (30) days shall not be considered.
16. **Payment Discounts:** Payment discount periods will be computed from date of receipt of materials or services or correct invoice, whichever is later, to the date payment is mailed. Unless freight and other charges are itemized, any discount provided will be taken on full amount of invoice. Payment discounts of thirty (30) calendar days or more will be deducted from the bid price in determining the low bid. However, the Valleywise Health shall be entitled to take advantage of any payment discount offered by the Vendor provided payment is made within the discount period.



**GENERAL PROVISIONS
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1. ORDER OF PRECEDENCE

To the extent that the Special Provisions, if any, are in conflict with the General Provisions, the Special Provisions shall control. To the extent that the Work Statement is in conflict with the General Provisions or the Special Provisions, then the Work Statement shall control. To the extent that the Compensation Provisions are in conflict with the General Provisions, Special Provisions or Work Statement, then the Compensation Provisions shall control.

2. DEFINITIONS

As used in this Contract, the following terms shall have the meanings set forth below:

Acceptable Invoice (Invoice) means an invoice that may be processed to adjudication without obtaining additional information from the Contractor or provider of service or from a third party, but it does not include invoices under investigation for fraud or abuse.

CEO means the Chief Executive Officer of Valleywise Health or his/her designee.

Comprehensive Health Center (CHC) means the Family Health Center, located on the Valleywise Health Medical Center campus, which provides outpatient primary and specialty care services.

Contract means this document and all its Agreements and amendments, including where applicable, contractors/respondent’s quotation.

Contractor means the person, firm or organization listed on the cover page of this Contract and includes its agents, employees, and sub-contractors.

Deeming Authority means the authority granted to an accreditation organization by CMS in accordance with Section 1865 of the Social Security Act.

Department means any Department of Valleywise Health.

Desert Vista means the stand-alone mental health facility located at 570 West Brown Road, Mesa, Arizona 85207, owned and operated by Valleywise Health.

Community Healthcare Centers (CHC) means one or more of the 13 facilities listed below:

Avondale CHC 950 East Van Buren Avondale, AZ 85323 Phone: (623) 344-6800	Chandler CHC 811 South Hamilton Chandler, AZ 85225 Phone: (480) 344-6100	Comprehensive Health Ctr. 2525 East Roosevelt Street Phoenix, AZ 85008 Phone: (602) 344-5407
El Mirage CHC 12428 West Thunderbird El Mirage, AZ 85335 Phone: (623) 344-6500	Glendale CHC 5141 W. LaMar Road Glendale, AZ 85301 Phone: (623) 344-6700	Guadalupe CHC 5825 E. Calle Guadalupe Guadalupe, AZ 85283 Phone: (480) 344-6000
Maryvale CHC 4011 North 51st Avenue Phoenix, AZ 85031 Phone: (623) 344-6900	McDowell CHC 1101 N. Central Ave. Phoenix, AZ 85004 Phone: (602) 344-6550	Mesa CHC 59 South Hibbert Mesa, AZ 85210 Phone: (480) 344-6200



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Sunnyslope CHC 934 West Hatcher Road Phoenix, AZ 85021 Phone: (602) 344-6300	Seventh Avenue CHC 1205 South 7th Avenue Phoenix, AZ 85007 Phone: (602) 344-6600	South Central CHC 33 West Tamarisk Avenue Phoenix, AZ 85041 Phone: (602) 344-6400
Maryvale Campus 5102 W. Campbell Ave Phoenix, AZ. 85031 Phone: (833) 855-9973		

Fraud means an intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to himself or some other person. It includes any act that constitutes fraud under applicable state or federal law.

Grievance means a complaint concerning an adverse action, decision, or policy by Contractor, its subcontractor, non-contracted provider, Valleywise Health, presented by an individual or entity.

HIPAA means the Health Insurance Portability and Accountability Act of 1996 (PL 104-191) and the United States Department of Health and Human Services (DHHS) final regulations on “Privacy Standards for Individually Identifiable Health Information”, as amended and clarified from time to time.

Valleywise Health means Valleywise Health Medical Center, the Comprehensive Healthcare Center (CHC), Desert Vista, the Family Healthcare Centers (FHCs), the Valleywise Health Urgent Care Clinic and any other health care related facility owned or operated by Valleywise Health. Valleywise Health is synonymous with the Maricopa County Special Health Care District.

Valleywise Health Medical Center means the hospital component of Valleywise Health located at 2601 East Roosevelt, Phoenix, Arizona 85008.

Valleywise Health Urgent Care Clinic (UCC) means the Urgent Care Clinic located at 1201 S. 7th Avenue, Phoenix, Arizona 85007.

Patient means any individual who is provided health care at a Valleywise Health owned, operated or contracted health care facility or by a Valleywise Health contracted provider.

Payer means any party other than Valleywise Health and Contractor who is obligated to make payments to Valleywise Health and/or the Contractor pursuant to a contract or standards of participation for the provision of health care services.

Payer Contract means an agreement between Valleywise Health and a Payer or funder, pursuant to which Valleywise Health agrees to provide or arrange to provide Covered Services to Members, Patients, or Beneficiaries.

Plan means a health benefits plan under which a Payer/Funder has contracted with Valleywise Health to provide or arrange to provide Covered Services to enrolled Members, Beneficiaries or Patients.

Subcontractor means one who enters into an agreement with and assumes some of the obligations of the



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primary Contractor.

3. LAWS, RULES AND REGULATIONS

- A. This Contract and Contractor is subject to all state and federal laws, rules and regulations that pertain hereto, including OSHA statutes and regulations.

- B. The Contractor warrants compliance with A.R.S. subsection § 41-4401, A.R.S. subsection § 23-214, the Federal Immigration and Nationality Act (FINA) and all other Federal immigration laws and regulations related to the immigration status of its employees. Contractor shall obtain statements from its subcontractors certifying compliance and shall furnish the statements to Valleywise Health upon request. These warranties shall remain in effect through the term of the Contract. The Contractor and its subcontractors shall also maintain Employment Eligibility Verification forms (I-9) as required by the U.S. Department of Labor’s Immigration and Control Act, for all employees performing work under this Contract. I-9 forms are available for download at USCIS.GOV.

Valleywise Health may request verification of compliance for any Contractor or subcontractor performing work under this Contract. Should Valleywise Health suspect or find that the Contractor or any of its subcontractors are not in compliance, Valleywise Health may pursue any and all remedies allowed by law, including, but not limited to: suspension of work, termination of the Contract for default, and suspension and/or debarment of the Contractor. All costs necessary to verify compliance are the responsibility of the Contractor.

- C. Contractor shall comply with Section 6032 of the Deficit Reduction Act of 2005, as amended, and Valleywise Health policies related to the detection of fraud, waste and abuse. The following documents are incorporated into this agreement by reference and available to Contractor via the links below. Contractor signifies receipt of the documents and agrees to comply with the requirements stipulated by federal law and Valleywise Health policy:
 - 1. The Valleywise Health False Claims Act policy is available at: <https://valleywisehealth.org/legal/privacy-Policy> under the Compliance Policies and Information section.

 - 2. Information about all Valleywise Health programs to detect and prevent fraud, waste and abuse is available at: <https://valleywisehealth.org/legal/privacy-policy/> under the Compliance Policies and Information section.

- D. The terms of this Contract shall be construed in accordance with the laws, ordinances, rules, regulations and zoning restrictions of the United States of America, the State of Arizona, County of Maricopa, and the appropriate municipality; any action thereon shall be brought in the appropriate court in the State of Arizona.

4. NO GUARANTEED VOLUME

Valleywise Health makes no representations nor guarantees the Contractor any maximum or minimum volume, payment, reimbursement, or number of units of service to be provided.



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5. NON-EXCLUSIVE STATUS

Valleywise Health reserves the right to have the same or similar service provided by a vendor other than the Contractor. Contractor will not be obligated to render services exclusively on behalf of Valleywise Health or Patients; provided however, that such non- Valleywise Health activities do not hinder, impair or conflict with Contractor’s ability to fully perform its obligations under this Contract.

6. COOPERATIVE PURCHASING

This Contract is awarded on behalf of Valleywise Health in its entirety. Valleywise Health has also entered into Cooperative Purchasing arrangements and Intergovernmental Agreements (IGAs) with other public agencies. Any eligible political subdivision, school district or other governmental jurisdiction that is a participant in a Cooperative Purchasing arrangement or IGA in which Valleywise Health is also a participant, may utilize the services of this Contract. Such use by other public agencies will require approval of the Contractor and will require the using public agency to place, receive and pay for its own orders and to address any other processes that vary from this Contract. Valleywise Health shall not be responsible for any disputes arising out of transactions made by other public agencies.

7. COOPERATION WITH OTHER CONTRACTORS AND SUBCONTRACTORS

Contractor shall fully cooperate with other Valleywise Health contractors and subcontractors and carefully plan and perform its own work to accommodate the work of other Valleywise Health contractors. The Contractor shall not commit or permit any act, which will interfere with the performance of work by any other contractor, with the exception of those necessary to protect Patients, employees and visitors from danger.

8. SAFEGUARDING OF CONFIDENTIAL AND PRIVILEGED PATIENT INFORMATION

Valleywise Health and Contractor shall safeguard confidential and privileged Patient information i.e., medical, financial and patient specific information, and shall only disclose such information in accordance with all applicable federal, state and local laws, rules, and/or regulations, including HIPAA. The use or disclosure by any party of any information concerning a Patient served under this Contract or any other applicable Payer Contract is directly limited to services under this Contract subject to applicable federal, state and local laws, rules and/or regulations. Contractor’s obligation to maintain the confidentiality of all medical, financial and patient specific information shall exist after termination or expiration of this Contract. Contractor shall assist Valleywise Health with regard to the Valleywise Health obligation to comply with HIPAA.

9. SUPPLY AND OWNERSHIP OF INFORMATION

Each party shall supply to the other party, upon request, any available information that is relevant to this Contract or any other applicable Payer Contract and to the performance of the parties hereunder.

Subject to applicable state and federal laws, rules and regulations, including without limitation those concerning confidentiality of Patient records, Valleywise Health shall have shared ownership rights to such records whether housed by Contractor or Valleywise Health and the shared right to inspect, reproduce, duplicate, distribute, display, disclose and otherwise use all records, reports, information, data and material prepared by the Contractor in performance of the Contract.

10. LICENSES AND PERMITS

A. The Contractor shall, without limitation, obtain and maintain all licenses, permits, and authority necessary to do business, render services, and perform work under this Contract, and shall comply with all laws regarding unemployment insurance, disability insurance, and worker’s compensation. Contractor shall pay



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all charges and fees necessary and incidental to the lawful conduct of his business. He shall keep himself current and fully informed of existing and future federal, state, and local laws, ordinances and regulations, which in any manner affect the fulfillment of this Contract and shall comply with the same.

- B. The Contractor, Contractor's employees and Subcontractors must not be under any sanctions, restrictions or provisional status from any applicable federal or state licensing/certifying/ credentialing agency, including but not limited to those agencies that have been granted Deeming Authority for Accreditation Organizations by CMS.

11. TAX AND INSURANCE OBLIGATIONS

Contractor assumes sole and exclusive responsibility for payment of any state and federal income taxes, federal social security taxes, worker's and unemployment insurance benefits for its physicians, staff, agents and employees as well as any and all other mandatory governmental deductions or obligations; in addition, Contractor assumes sole and exclusive responsibility for any pension or retirement program(s) for its staff, agents or employees whether required by law or not; in connection with the obligations contained in this paragraph, Contractor shall indemnify, defend and hold harmless Valleywise Health for any and all liability which Valleywise Health may incur as a result of Contractor's failure to pay such taxes or any such financial responsibility, as well as the Valleywise Health liability for any such taxes or mandatory governmental obligations.

12. RETENTION AND ADEQUACY OF RECORDS

The Contractor agrees to retain all financial books, records, and other documents pertaining to this Contract or any other applicable Payer Contract for at least six years after final payment or until six years after the resolution of any audit questions or disputes. Valleywise Health, state or federal auditors and any other persons duly authorized by Valleywise Health shall have full access to, and the right to examine, copy and make use of any and all said materials. The Contractor's record system will provide accurate, timely, complete, organized and legible information.

13. CONTRACT COMPLIANCE MONITORING

- A. Valleywise Health shall monitor the Contractor's compliance with and performance under this Contract. On-site visits for compliance monitoring may be made by Valleywise Health, its designees and/or its Payer/Funder at any time during the Contractor's normal business hours, announced or unannounced. The Contractor shall make available for inspection and copying for the Valleywise Health monitors, all records and accounts relating to the work performed or the services provided under this Contract or any other applicable Payer Contract. Upon request, the Contractor will investigate and respond in writing to appropriate Valleywise Health staff concerns within ten (10) calendar days of receipt or notification of a request.
- B. If Valleywise Health needs the assistance or expertise of a private accounting, auditing, health care financing or contract compliance firm, and if Contractor and Valleywise Health agree in writing, they will equally share such expenses.
- C. Contractor agrees to take timely corrective action to resolve any problem identified from monitoring findings.
- D. Valleywise Health may change or add to these requirements, when applicable laws, rules and regulations are modified or created necessitating a change.



14. AUDIT AND AUDIT DISALLOWANCE

- A. Valleywise Health reserves the right to audit any financial records of the Contractor or any Subcontractor(s), which relate to the terms under this Contract including services and billings made to Valleywise Health. Such audits will be made at the Valleywise Health expense at a time and place convenient to the Contractor. If the Contractor desires to participate in the selection of the auditor, the Contractor must be willing to share equally in the costs.
- B. Valleywise Health representatives displaying Valleywise Health identification shall have the right, during normal business hours, to enter the Contractor's facility for the purpose of examining records and related documents pertaining to services performed under this Contract or any other applicable Payer Contract and Contractor shall make available such records as requested.
- C. If at any time it is determined by Valleywise Health that a service or commodity for which payment has been made is disallowed, Valleywise Health shall notify the Contractor in writing with the required course of action. It is at the Valleywise Health option to submit an invoice to Contractor for the amount, to adjust any future invoice submitted by the Contractor in the amount of the disallowance or to require repayment plus interest at the rate provided in A.R.S. § 44-1201 of the disallowed amount by the Contractor.
- D. Contractor, upon written notice, shall reimburse Valleywise Health for any payments made under this Contract which are disallowed by a state, federal audit in the amount of the disallowance.
- E. Should either party undertake court action concerning a disallowance, the prevailing party shall receive, as part of its remedy, compensation for reasonable attorney fees, costs, expenses and court costs.

15. VALLEYWISE HEALTH RECOUPMENT RIGHTS

In addition to any other remedies set forth in this Contract, Valleywise Health has the right to recoup, offset or withhold from Contractor any monies that Contractor has received but not yet provided the services, or where such monies should not have been provided to Contractor under the terms of this Contract or any other Payer Contract or where Valleywise Health is obligated to recoup under state or federal laws.

16. DISPUTES

Except as otherwise provided by law, any dispute arising under this Contract shall be submitted to the Dispute Process as specified in the applicable Valleywise Health Procurement Code, Article 7 as amended from time to time.

17. NON-DISCRIMINATION

The Contractor shall not in any way discriminate against any Patient on the grounds of race, color, religion, sex, national origin, age, disability, health status and genetics, political affiliation or belief. The Contractor shall include a clause to this effect in all its pertinent subcontracts. The Contractor shall also comply with all applicable provisions of the Americans with Disabilities Act of 1990.

18. EQUAL EMPLOYMENT OPPORTUNITY

The Contractor will not discriminate against and shall take positive action to ensure that discrimination does not occur regarding any employee or applicant for employment because of race, color, religion, sex national origin, age, disability, or political affiliation. Employment discrimination includes harassment because of an individual's



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race, color, religion, sex, national origin, age or disability. The Contractor will, to the extent such provisions apply, comply with the Equal Pay Act of 1963; Title VI and VII of the Federal Civil Rights Act; the Federal Rehabilitation Act; the Age Discrimination in Employment Act; the Americans with Disabilities Act of 1990; the Immigration Reform and Control Act (IRCA) of 1986; and Arizona Executive Order 2009-09 and Federal Order 11246, which mandates that all persons shall have equal access to employment opportunities. Furthermore, Contractor shall not violate any local, state, or federal law, rule or regulation prohibiting discrimination in employment.

19. COVENANT AGAINST CONTINGENT FEES

The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this Contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee excepting bona-fide employees or bona-fide established commercial or selling agencies retained by the Contractor for the purpose of securing business. For breach or violation of this warranty, Valleywise Health shall have the right to terminate this Contract without liability and at its sole discretion, to deduct from the Contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

20. INDEPENDENT CONTRACTOR STATUS AND NON-LIABILITY

- A. The Contractor is an Independent Contractor in the performance of all work and the provision of all services under this Contract and is not to be considered an officer, employee, or agent of Valleywise Health.
- B. This Contract is not intended to constitute, create, give rise to or otherwise recognize a joint venture agreement or relationship, partnership or formal business organization of any kind, and the rights and obligations of the parties shall be only those expressly set forth in this Contract.
- C. Valleywise Health and its officers and employees shall not be liable for any act or omission by the Contractor occurring in the performance under this Contract or any other applicable Payer Contract, nor shall Valleywise Health be liable for purchases or contracts made by the Contractor in anticipation of funding hereunder.

21. INDEMNIFICATION

- A. To the fullest extent permitted by law, the Contractor shall indemnify, defend and hold harmless Valleywise Health, its agents, representatives, officers, directors, officials and employees from and against any and all claims, damages, losses and expenses (including but not limited to attorney fees, court costs) relating to, arising out of, or alleged to have resulted from the Contractor's acts, errors, omissions or mistakes relating to any service provided by Contractor as well as any other activity of or by Contractor under the terms of this Contract or any other Payer Contracts that are incorporated into this Contract. Contractor's duty to hold harmless, defend and indemnify Valleywise Health, its agents, representatives, officers, directors, officials and employees shall arise in connection with any claim, damage, loss or expense, including but not limited to those attributable to bodily injury, sickness, disease, death, or injury to, impairment, or destruction of property including loss of use resulting there from, caused by any acts, errors, mistakes or omissions related to any service or professional services as well as any other activity under the terms of this Contract, or any other contracts that are incorporated into this Contract, including any person for whose acts, errors, mistakes or omissions the Contractor may be legally liable.
In addition to the indemnification obligations set forth above, if the Contractor provides goods or services other than direct patient care services under this Contract, Contractor must provide for the defense and



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defend Valleywise Health in any actions referenced above.

- B. Nothing in this Contract or any other contract(s) including Payer Contracts that are incorporated into this Contract may be construed as limiting the scope of the indemnification provisions contained in this Contract.
- C. The provisions of this paragraph and the Contractor's indemnification obligation will survive beyond the expiration or termination of this Contract.

22. INSURANCE PROVISIONS AND REQUIRED COVERAGE, TERM AND TERMINATIONS

- A. **General.** The Contractor shall, at its own expense, purchase and maintain the minimum insurance specified below with companies duly licensed, with a current A.M. Best, Inc. Rating of A VII', or approved unlicensed by the State of Arizona Department of Insurance.
- B. **Additional Insured.** The insurance coverage, except Workers' Compensation, required by this Contract, shall name Valleywise Health, its agents, representatives, officers, directors, officials and employees as Additional Insured.
- C. **Duration of Coverage.** All insurance required herein shall be maintained in full force and effect during the term of this Contract and until all work or services required to be performed under this Contract has been satisfactorily completed and formally accepted by Valleywise Health. Thereafter, the insurance and indemnification provisions contained in this Contract will extend beyond the termination date of this Contract.
- D. **Tail Coverage.** In the event any insurance policy or policies required by this Contract are written on a "claims made" basis, Contractor shall obtain coverage for at least two years beyond the termination of this Contract based on availability of such coverage and reasonableness of cost.
- E. **Claim Reporting.** Any failure to comply with the claim reporting provisions of Contractor's policies or any breach of a policy warranty shall not affect Contractor's obligations or coverage afforded under the policies to protect Valleywise Health.
- F. **Waiver (Subrogation).** The policies shall contain a waiver of transfer rights of recovery (subrogation) against Valleywise Health, its agents, representatives, directors, officers, and employees for any claims arising out of the Contractor's work or service.
- G. **Deductible/Retention.** Contractor's policies may provide coverage, which contain deductibles or self-insured retentions. The Contractor shall be solely responsible for the deductible and/or self-insured retention.
- H. **Certificates of Insurance.** Prior to commencing work or services under this Contract, Contractor shall, upon request, furnish Valleywise Health with Certificates of Insurance, or formal endorsements evidencing that the required policies and/or coverage are in full force and effect during term of this Contract and where relevant, thereafter. All Certificates of Insurance shall be identified with this Contract number and title.
- I. **Cancellation and Expiration Notice.** Insurance required by the terms of this Contract shall not expire, be canceled, or materially changed without 15 days prior written notice to Valleywise Health. If a policy does



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expire during the life of this Contract, a renewal Certificate must be sent to Valleywise Health fifteen (15) days prior to the expiration date.

J. **Copies of Policies.** Valleywise Health reserves the right to request and receive, within 10 working days of the request, certified copies of any or all of the above policies and/or endorsements referenced herein.

K. **Primary Coverage.** Contractor's insurance shall be the primary insurance under the terms of this Contract as respects Valleywise Health for any acts of Contractor; any insurance or self-insurance program maintained by Valleywise Health shall not contribute to or be excess of Contractor's insurance obligations for its negligent acts hereunder.

L. **Types of Coverage Required.** Contractor is required to procure and maintain the following coverages indicated by a checkmark:

- 1. **Commercial General Liability.** Commercial General Liability insurance with a limit of not less than \$1,000,000 for each occurrence and with a \$3,000,000 General Aggregate Limit. The policy shall include coverage for bodily injury, broad form property damage, personal injury, products and completed operations and blanket contractual covering.
- 2. **Automobile Liability.** Commercial/Business Automobile Liability insurance with a combined single limit for bodily injury and property damage of not less than \$1,000,000 each occurrence with respect to any of the Contractor's owned, hired, and non-owned vehicles assigned to or used in performance of the Contractor's work or services under this Contract.
- 3. **Workers' Compensation.** Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of Contractor's employees engaged in the performance of the work or services under this Contract; and Employer's Liability insurance of not less than \$1,000,000 for each accident, \$1,000,000 disease for each employee, and \$1,000,000 disease policy limit.
- 4. **Professional Liability.** Professional Liability insurance (for health care, and health care related services) which will provide coverage for any and all acts arising out of the work or services performed by the Contractor under the terms of this Contract, with a limit of not less than \$1,000,000 for each claim, and \$3,000,000 for all (aggregate) claims.
- 5. **Errors and Omissions Insurance.** Errors and Omissions Insurance, other than Professional Liability Coverage referenced above, which will insure and provide coverage for errors or omissions of the Contractor due to, but not limited to, internal and external theft, mismanagement, misuse, or inappropriate disclosure of electronic data, including protected health information as defined under HIPAA, or other technology errors or business interruptions related to the above listed coverages, with limits of no less than \$1,000,000 (or up to \$5,000,000 based on exposure risk) for each claim and \$3,000,000 (or up to \$15,000,000 based on exposure risk) in the aggregate.
- 6. **Directors and Officers Liability Coverage.** Directors and Officer Liability, with coverage limits at levels that are customary in the community for group medical practices.
- 7. **HIPAA and cyber-security breach insurance. Security, Privacy, Data Breach Insurance.** Contractor shall maintain security, privacy, and data breach insurance (including coverages for HIPAA violations) in the amount of no less than \$5,000,000. in the aggregate per year. Upon request, Contractor shall furnish the District with certificate(s) from the insurance carriers (or from contractor's Risk Management Office if issued by governmental unit) evidencing



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such coverage including a provision of thirty (30) days' notice of cancellation or nonrenewal of coverage

23. ASSIST WITH DEFENSE IN LITIGATION

Contractor agrees to cooperate in the defense of lawsuits or other quasi-legal actions arising from work performed under this Contract or any other applicable Payer Contract. Cooperation may include, but not be limited to, participating in depositions, interpreting medical records, meeting with Valleywise Health Attorney staff, or other representatives of Valleywise Health.

24. USE OF VALLEYWISE HEALTH PROPERTY

- A. The Contractor shall not use Valleywise Health premises, property (including equipment, instruments and supplies), or personnel for any purpose other than the performance of the duties under this Contract.
- B. Contractor will be responsible for any damages to Valleywise Health property when such property is the responsibility of or in the custody of the Contractor, his employees or subcontractors.

25. SEVERABILITY

Any provision of this Contract, which is determined to be invalid, void or illegal shall in no way affect, impair or invalidate any other provision hereof, and remaining provisions shall remain in full force and effect.

26. NO WAIVER OF STRICT COMPLIANCE

Acceptance by Valleywise Health of performance not in strict compliance with the terms hereof shall not be deemed to waive the requirement of strict compliance for all future performance obligations.

27. PROHIBITION AGAINST LOBBYING

- A. Pursuant to P.L.101-121 (31 U.S.C.§1352) recipients of federal contracts, grants, loans, or cooperative agreements are prohibited from using appropriated funds to pay anyone to influence or attempt to influence Congress, or an executive agency, in connection with any federal grant, contract or loan.
- B. Contractor shall not use, directly or indirectly, any of the monies received pursuant to the terms of this Contract for purposes of lobbying, influencing, or attempting to influence, any governmental entity, public official or member of any state, county, district or local governmental entity, with regard to any grant, contract or loan.

28. QUALITY MANAGEMENT

Contractor shall fully cooperate with Valleywise Health to fulfill any quality management program requirements undertaken by Valleywise Health or required by the Centers for Medicare and Medicaid Services (CMS), AHCCCS/ALTCS, Arizona Department of Health Services (ADHS), and all other regulatory or accrediting bodies, including but not limited to those agencies that have been granted Deeming Authority for Accreditation Organizations by CMS, that pertain to services provided under this Contract. Contractor shall be subject to annual performance evaluations by Valleywise Health and evaluated on the following quality metrics associated with performance under the Contract: Quality (e.g. patient safety), Timeliness, Business Relations and Cost.



29. CERTIFICATION OF COST AND PRICING DATA

- A. The Contractor certifies that, to the best of its knowledge and belief, any cost or pricing data submitted is accurate, complete and current as of the date submitted or mutually agreed upon date. The price(s) may be adjusted to exclude any amounts by which Valleywise Health finds that the price was increased because the Contractor furnished cost or pricing data that was inaccurate, incomplete or not current as of the date of certification. The Contractor has a continuing duty to report to Valleywise Health that the price was increased because the cost or pricing data was inaccurate, incomplete or not current as off the date of certification. The certifying of cost or pricing data does not apply when federal or state law or regulations set contract rates.
- B. Where applicable, the Subcontractor's rate shall not exceed that of the Contractor's rate, as bid in the pricing sections, unless the Contractor is willing to absorb any higher rates. The Subcontractor's invoice shall be invoiced directly to the Contractor, who in turn shall pass-through the costs to Valleywise Health, without mark-up. A copy of the Subcontractor's invoice must accompany the Contractor's invoice.

30. USE OF CONTRACTOR'S NAME, SYMBOLS AND SERVICE MARKS

Valleywise Health may utilize Contractor's name as one of its Contractors or vendors in its marketing literature. Use of the Contractor's name for any other purpose requires Contractor's prior approval. While each party agrees to permit the other to use that party's address, photograph, telephone number, and description of services in its regulatory documentation or for marketing purposes, neither party may use the other party's name, symbols or trademarks, nor any proprietary information without prior written approval of the other party.

31. NO THIRD PARTY BENEFICIARY RIGHTS

The obligation of each party under this Contract is intended to solely benefit the other party. No other person shall be a third party beneficiary of this Contract, nor have any rights under this Contract.

32. TERM OF THIS CONTRACT AND RIGHT TO EXTEND

The term of this Contract shall be as set forth on the Cover Page, unless otherwise terminated or extended in accordance with the terms of this Contract.

Subject to the availability of funds and acceptable Contractor performance, Valleywise Health may extend this Contract for additional periods, not to exceed a total term of five (5) years from the Effective Date.

33. ADJUSTMENTS TO CONTRACT TERM AND PRICE

Requests for change in Contract terms, including price adjustments, shall be submitted by Contractor 120 days prior to the expiration date. Any increase in the cost of service or price, must be mutually acceptable to Valleywise Health and the Contractor and be incorporated into this Contract by amendment.

34. ASSIGNMENTS

- A. Neither this Contract, nor any portion thereof, may be assigned to another party by Contractor without the written consent of Valleywise Health. Any attempt by the Contractor to assign any portion of this Contract without the written consent of Valleywise Health shall constitute a breach of this Contract and may render this Contract null and void.



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- B. No assignment shall alter the Contractor's legal responsibility to Valleywise Health to assure that all of the provisions under this Contract are carried out. All terms and conditions in this Contract shall be included in all of the Contractor's assignments.
- C. Valleywise Health may, upon 90 days prior written notice, and without the consent of the other party hereto, assign this Contract.

35. SUBCONTRACTS

- A. No subcontract alters the Contractor's legal responsibility to Valleywise Health to assure that all of the provisions under this Contract are carried out. All terms and conditions in this Contract shall be included in all of the Contractor's subcontracts.
- B. Contractor may enter into Subcontractor agreements with qualified vendors or with professional corporations. All such subcontracts are subject to the review and prior approval of Valleywise Health.
- C. Contractor agrees that it is liable and responsible for any act or omission by the Subcontractor, its employees, agents, officers and representatives, occurring in the course of Contractor's performance of this Contract, whether such act or omission occurs on Valleywise Health property or elsewhere. Contractor shall be liable for any loss or damage arising out of or related to Subcontractor's performance of this Contract. Contractor shall bear the above stated liability for all consequential, incidental, direct, and indirect damages, and shall be liable for all costs, including attorney's fees, incurred by Valleywise Health to enforce this provision, even in absence of its own negligence, unless Valleywise Health actions caused the loss or damage.
- D. If Contractor is a professional corporation, professional limited liability company, partnership or other association, Contractor shall obligate in writing each of its shareholders, members, partners or professional employees who may perform services under this Contract, to comply with all of the terms and conditions of this Contract.
- E. Valleywise Health may require the termination of any subcontract or Subcontractor for the reasons set forth in Paragraph #37, Termination.

36. AMENDMENTS

- A. All Amendments to this Contract must be in writing and signed by both parties, except as otherwise provided in this paragraph.
- B. When Valleywise Health issues an amendment, the Contractor shall sign and return the required number of original copies of the amendment. The provisions of such amendment will be deemed to have been accepted 60 days after the date of mailing by Valleywise Health even if the amendment has not been signed by the Contractor, unless within that time the Contractor notifies Valleywise Health in writing that it refuses to sign the amendment. If the Contractor provides such notification, Valleywise Health will initiate a Dispute or Termination proceeding, as appropriate.
- C. Valleywise Health may, by written amendment, make changes within the general scope of this Contract. If any such amendment causes an increase or decrease in the cost of, or the time required for, performance of any part of the work under this Contract, the Contractor or Valleywise Health may assert its right to an



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equitable adjustment in compensation paid under this Contract. The Contractor or Valleywise Health must assert its right to such adjustment within 30 days from the date of receipt of the change notice.

37. TERMINATION

A. Termination for Convenience

Either party may terminate this Contract, or any part thereof, at any time with 90 day's notice in writing to the other party. This provision does not preclude Valleywise Health from terminating the Contract sooner under other applicable provisions of this Contract.

B. Termination by Mutual Agreement

This Contract, or any part thereof, may be terminated by mutual written agreement of the parties specifying the termination date therein.

C. Termination for Cause

Valleywise Health may terminate this Contract for cause upon 14 calendar days written notice to the Contractor. Such cause may include, but not be limited to, the following:

- (1) Breach of this Contract which is not corrected within 14 calendar days after written notice thereof, served by certified or registered mail, return receipt requested.
- (2) Professional misconduct as determined by Valleywise Health Medical Staff in accordance with the MMC's Medical Staff Bylaws or Rules and Regulations.
- (3) Continual neglect of duty or violation of Valleywise Health Policies or Valleywise Health Medical Staff Bylaws or Rules and Regulations.
- (4) Inability to discharge the duties and responsibility under this Contract for a continual period of 14 calendar days or more.

D. Immediate Termination

- (1) Valleywise Health may terminate this Contract immediately when the life, health or safety of a Patient, Beneficiary, Valleywise Health employee or Valleywise Health Contracted employee is jeopardized by the activities or inactivities of Contractor.
- (2) Valleywise Health may also terminate this Contract immediately, with notice to the Contractor, upon the occurrence of any of the following events:
 - a. Loss, restriction or suspension of Contractor's license, certification or other authority essential to its ability to perform its obligations under this Contract,
 - b. Insolvency, dissolution or bankruptcy of the Contractor.

E. Termination - Availability of Funds

If any action is taken by any state agency, federal department, or any other agency, payer or instrumentality to suspend, decrease, or terminate its fiscal obligations under, or in connection with, this Contract or any other applicable Payer Contract, Valleywise Health may amend, suspend, decrease, or terminate its obligations under, or in connection with, this Contract. In the event of termination, Valleywise Health shall be liable for payment only for services rendered prior to the effective date of the termination, provided that such services performed are in accordance with the provisions of this Contract or any other applicable Payer Contract. Valleywise Health shall give written notice at least 10 days in advance of the effective date of any suspension, amendment, or termination under this section.



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- F. Such notice shall be given by personal delivery or by registered or certified mail. The Contractor shall be entitled to receive just and equitable compensation for work in progress, work completed and materials accepted before the effective date of the termination.
- G. If this Contract is terminated on the basis of Paragraph(s) 37. A, B, or D, the provisions of Paragraph 16, Disputes, do not apply.

38. DEFAULT

Valleywise Health may suspend, modify or terminate this Contract in whole or in part, immediately upon written notice to Contractor in the event of a non-performance of stated objectives or any other material breach of contractual obligations; or upon the happening of any event which would jeopardize the ability of the Contractor to perform any of its contractual obligations. Valleywise Health reserves the right to have service provided by other than the Contractor if the Contractor is unable or fails to provide requested service within the specified time frame or in the contractually prescribed manner.

39. AVAILABILITY OF FUNDS

The provisions under this Contract or any other applicable Payer Contract relating to payment for services shall become effective when funds assigned for the purpose of compensating the Contractor as herein provided are actually available to Valleywise Health for disbursement. The CEO shall be the sole judge and authority in determining the availability of funds and Valleywise Health shall keep the Contractor fully informed as to the availability of funds.

40. CONTRACTOR'S CONDUCT

Contractor will not engage in any conduct, activities, business or professional arrangements that jeopardize this Contract or Contractor's performance, obligations or duties under this Contract.

41. RIGHT OF CANCELLATION PER A.R.S. § 38-511

Notice is given that pursuant to A.R.S. § 38-511 Valleywise Health may cancel this contract without penalty or further obligation within three years after execution of the Contract, if any person significantly involved in initiating, negotiating, securing, drafting or creating the Contract on behalf of Valleywise Health is at any time while the Contract or any extension of the Contract is in effect, an employee or agent of any other party to the Contract in any capacity or consultant to any other party of the Contract with respect to the subject matter of the Contract.

Additionally, pursuant to A.R.S. § 38-511 Valleywise Health may recoup any fee or commission paid or due to any person significantly involved in initiating, negotiating, securing, drafting or creating the Contract on behalf of Valleywise Health from any other party to the Contract arising as the result of the Contract.



SPECIAL PROVISIONS

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1. ORDER OF PRECEDENCE

To the extent that the Special Provisions, if any, are in conflict with the General Provisions, the Special Provisions shall control. To the extent that the Work Statement is in conflict with the General Provisions or the Special Provisions, then the Work Statement shall control. To the extent that the Compensation Provisions are in conflict with the General Provisions, Special Provisions or Work Statement, then the Compensation Provisions shall control.

2. DEFINITIONS

As used in this Contract, the following terms shall have the meanings set forth below:

Ancillary Care means x-rays, laboratory, ambulance, transportation, pharmacy services, therapies, dialysis, and other medically related services.

Appeal means a request for a standard or expedited reconsideration of the denial of a requested service or payment of a service.

Discharge Planning means the identification of the need and provision for a Member’s, Beneficiary’s or Patient’s health care needs after discharge from the hospital or skilled nursing facility.

Emergency Medical Condition means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that a prudent layperson, with an average knowledge of health and medicine, could reasonable expect the absence of immediate medical attention to result in:

- 1) serious jeopardy to the health of the individual (or an unborn child);
- 2) serious impairment to bodily functions; or
- 3) serious dysfunction of any bodily organ or part.

Emergency Medical Services means services provided after the sudden onset of a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in:

- 1) placing the patients’ health in serious jeopardy;
- 2) serious impairment of bodily functions; or
- 3) serious dysfunction of any bodily organ or part.

Service Area means the geographic area where the Contractor is obligated to provide services under this Contract.

3. STANDARDS AND LICENSURE

A. Contractor shall not be operating under a provisional license or have been cited for a violation involving a Beneficiary’s or Patient’s life, health or safety in the last two years.

B. Contractor must be in compliance with OSHA Regulations regarding blood borne pathogens. Upon request, Contractor must prove compliance by providing its exposure control plan for review.

4. REFERRALS AND PROHIBITIONS AGAINST SOLICITATION

The Contractor will not advise, counsel, solicit or refer any Patient to facilities, health plans or providers, other than Valleywise Health Medical Center or other Valleywise Health designated health care providers, except in accordance with written Valleywise Health policies or procedures for services not available from or provided by Valleywise Health Medical Center or other Valleywise Health designated health care providers.



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- C. Contractor shall immediately notify Valleywise Health of any change in office location, telephone numbers and hours of business.
- D. Contractors, who are not subject to any state or federal regulatory or accrediting body, shall fully comply with all Valleywise Health policies, procedures, and standards.

5. CONTINGENCY RELATING TO OTHER CONTRACTS AND GRANTS

- A. The Contractor will, during the term of this Contract, immediately inform Valleywise Health in writing of the award of any other contract or grant, including any other contract or grant awarded by Valleywise Health where the award of such contract or grant may affect, directly or indirectly, costs being paid/reimbursed under this Contract. Contractor will provide a copy of such contracts or grants awards upon request.
- B. If Valleywise Health determines that the award to the Contract given has affected the payments due or reimbursements made under this Contract, then Valleywise Health shall prepare a Contract Amendment reflecting an adjustment. If the Contractor protests the proposed adjustment, the protest shall be construed as a dispute within the meaning of the “Disputes” clause contained herein.

6. IMMUNIZATION REQUIREMENTS

- A. At the time the Contractor initially reports to work at any Valleywise Health facility, that person shall present to Valleywise Health designee evidence as follows:
 - 1) Proof of immunity or immunization in compliance with current Valleywise Health immunization requirements or a signed declination statement.
 - 2) Respiratory Fit testing within the past 12 months if use of N-95 Respirator is required.
 - 3) Proof of annual TB screening as required by Arizona Administrative Code Title 9, Chapter 10, R9-10-113.

All employees or subcontractors of the Contractor who fail to provide such evidence will not be permitted to work.

- B. Valleywise Health will provide, if the Contractor elects, the option to use the Valleywise Health Occupational Health Services Department to receive immunizations or laboratory services necessary to satisfy Valleywise Health requirements at the then current posted Valleywise Health fee schedule. Rates are subject to change annually and are established by Valleywise Health on the First of July each year and will be provided to the Contractor upon request.

7. VENDOR REGISTRATION

All vendors are required to register in the Valleywise Health Vendor Portal, create a company profile, and supply company-level data for authentication and credentialing by the Valleywise Health third party partner, Vendormate. Vendor registration allows Valleywise Health to access your company’s data to process payments in a timely manner, ensure compliance with internal controls and regulatory requirements, and



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review accurate and complete vendor information to maintain ongoing relationships. During the term of the agreement, Contractor agrees to register in the Valleywise Health Vendor Portal at <https://mihs.vendormate.com> and is responsible for the annual registration fee payable to Vendormate. Fees may vary based on your companies risk profile. Failure to register and maintain a current registration will prevent issuance of payment for any product or service rendered. Representatives of Contractor that require onsite access to the Valleywise Health facilities may be required to fulfill additional requirements and pay additional fees for more extensive authentication and credentialing.

8. INCORPORATION BY REFERENCE

All methods, procedures, techniques, etc. to be employed by the Contractor in performance of this Contract shall be as set forth in the quotation submitted, as modified by agreement of the parties. The Contractor’s quotation, as modified, is incorporated by reference as set forth in Attachment A – Contractor RFQ Response.

Nothing prohibits the addition of supplemental services, not identified in this Contract and deemed necessary by Valleywise Health and agreed to by the Contractor.

1. COMPENSATION

- A. Subject to the availability of funds, Valleywise Health will, within 45 days from the date of receipt of an acceptable invoice, process and remit to the Contractor, a warrant for payment. Should Valleywise Health make disallowance in the invoice, the invoice shall be processed for the reduced amount. Contractor shall be notified in writing of the amount and reasons for any disallowances and shall be afforded the opportunity to document the appropriateness of the disallowed costs and to resubmit an invoice for payment. Contractor will direct all invoice inquiries to the Accounts Payable Department at (602) 344-8405. If the Contractor does not understand or disputes the findings of the Accounts Payable Department, or if the Contractor does not believe that there has been a fair resolution of the issue, they may initiate the Disputes process in accordance with the Disputes clause of this Contract.
- B. The Contractor understands and agrees that Valleywise Health will not honor any invoice submitted beyond the allowable time frame. Initial invoices for payment must be submitted within six months after date of service. Invoices must be resubmitted no more than 60 days after the date of service. Contractor understands and agrees that Valleywise Health will not process any invoice for payment for services rendered prior to the Contract expiration date, which are submitted 60 days after the Contract expiration date without approval of the Chief Financial Officer.

2. METHOD OF PAYMENT

- A. Contractor will provide separate invoices and mail to:

Valleywise Health
Attention: Accounts Payable Department
ap@ValleywiseHealth.org

- B. Invoices must consist of the following information:



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- Contractor's name
- Contract Number
- Contract Not to Exceed (NTE) Amount
- Purchase Order Number
- Federal Tax ID number
- Date(s) of service
- Total charge
- Itemized listing of services

C. The Valleywise Health preferred method of payment is the Commercial Credit Card Program with Commerce Bank. Payments via credit card with Commerce Bank would result in quicker turnaround time for payments, once an approved vendor invoice is received. If the successful vendor indicates that they will accept such payment, further information will be available at time of award. Please indicate below whether or not you would be willing to accept credit card payments.

Yes

No

Comments: _____

ATTACHEMENT A: PRICING
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Company Name:

Item	Description of material and/or services			
1.	Price sheet located on separate excel spreadsheet.			
2.				



ATTACHMENT B: REFERENCES

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Please list a minimum of three (3) owner references from projects of similar size and scope whom the Contracts Administration may contact:

- 1. Company: _____
Contact: _____
Address: _____

Phone: _____
Email: _____
Type of Work: _____

- 2. Company: _____
Contact: _____
Address: _____

Phone: _____
Email: _____
Type of Work: _____

- 3. Company: _____
Contact: _____
Address: _____

Phone: _____
Email: _____
Type of Work: _____



**ATTACHMENT C: EXCEPTION TO RFQ REQUIREMENTS
AND/OR CONTRACT PROVISIONS
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Vendors are to indicate below any exceptions they have taken to the Terms, Conditions or Specifications:

- No Exceptions.**
- Vendor takes the following Exceptions:**

Since the District is subject to Arizona’s Public Records Act, Title 39 Chapter 1 of the Arizona Revised Statutes, Proposer is advised that any documents it provides to the District in response to a solicitation will be available to the public if a proper Public Records Request is made, except that the District is not required to disclose or make available any record or other matter that reveals proprietary information provided to the District by a Proposer that is from a non-governmental source. See ARS 48-5541.01(M)(4)(b).

PURSUANT TO THE PROCUREMENT CODE, ANY SPECIFIC DOCUMENTS OR INFORMATION THAT THE PROPOSER DEEMS TO BE PROPRIETARY AND/OR CONFIDENTIAL MUST BE CLEARLY IDENTIFIED AS SUCH IN THE QUOTATION ALONG WITH JUSTIFICATION FOR ITS PROPRIETARY AND/OR CONFIDENTIAL STATUS.¹

NOTE: The Proposer may not claim that the entire Proposal or the entire submission is proprietary and/or confidential. It is the Proposer’s responsibility to clearly identify each document and each piece of information in their submission that is proprietary and/or confidential. The final determination of nondisclosure, however, rests with the Procurement Officer.²

Proposer should be aware that if a Court determines that the Proposer’s information is not proprietary and/or confidential, the District will be required to disclose such information pursuant to a public records request. In such cases, Proposer understands and agrees that the District shall comply with the Court’s determination and Proposer shall not hold District liable for any costs, damages or claims whatsoever related to releasing the information.

This is the *only notice* that will be given to the Proposer regarding the Proposer’s responsibility to clearly identify its proprietary and/or confidential information. If a public records request is submitted to the District and the Proposer did not clearly identify its proprietary and/or confidential information at the time their Proposal is submitted, the District will not provide Proposer with any subsequent notice or opportunity to identify proprietary and/or confidential documents or information.

Please sign and include this statement with your proposal. I hereby certify that I acknowledge acceptance of the terms above and that I have:

- Determined that no documents or information contained within this proposal are proprietary and/or confidential in nature.
- Clearly identified specific documents or information that are deemed to be proprietary and/or confidential and have justified the reason for the proprietary status of any identified documents or information contained herein.

Printed Name of Authorized Individual

Name of Submitting Organization

Signature of Authorized Individual

Date

¹ MARICOPA COUNTY SPECIAL HEALTH CARE DISTRICT (MCSHCD) PROCUREMENT CODE, ARTICLE 1, GENERAL PROVISIONS, PARAGRAPH HS-104, CONFIDENTIAL OR PROPRIETARY INFORMATION.

² MARICOPA COUNTY SPECIAL HEALTH CARE DISTRICT (MCSHCD) PROCUREMENT CODE, ARTICLE 1, GENERAL PROVISIONS, PARAGRAPH HS-104(C).



**ATTACHMENT D: MINORITY
/WOMEN/SMALL/DISADVANTAGED BUSINESS
90-20-150-RFQ**

=====

MINORITY BUSINESS/WOMEN BUSINESS/SMALL BUSINESS/DISADVANTAGED BUSINESS
(Check appropriate item):

- | | |
|---|--|
| <input type="checkbox"/> Minority Business Enterprise (MBE) | <input type="checkbox"/> Women Business Enterprise (WBE) |
| <input type="checkbox"/> Small Business Enterprise (SBE) | <input type="checkbox"/> Disadvantaged Business Enterprise (DBE) |

Printed Name of Authorized Individual

Name of Submitting Organization

Signature of Authorized Individual

Date



**ATTACHMENT E: PROPRIETARY AND/OR CONFIDENTIAL
INFORMATION
90-20-150-RFQ**

Since the District is subject to Arizona’s Public Records Act, Title 39 Chapter 1 of the Arizona Revised Statutes, Proposer is advised that any documents it provides to the District in response to a solicitation will be available to the public if a proper Public Records Request is made, except that the District is not required to disclose or make available any record or other matter that reveals proprietary information provided to the District by a Proposer that is from a non-governmental source. See ARS 48-5541.01(M)(4)(b).

PURSUANT TO THE PROCUREMENT CODE, ANY SPECIFIC DOCUMENTS OR INFORMATION THAT THE PROPOSER DEEMS TO BE PROPRIETARY AND/OR CONFIDENTIAL MUST BE CLEARLY IDENTIFIED AS SUCH IN THE PROPOSAL ALONG WITH JUSTIFICATION FOR ITS PROPRIETARY AND/OR CONFIDENTIAL STATUS.³

NOTE: The Proposer may not claim that the entire Proposal or the entire submission is proprietary and/or confidential. It is the Proposer’s responsibility to clearly identify each document and each piece of information in their submission that is proprietary and/or confidential. The final determination of nondisclosure, however, rests with the Procurement Officer.⁴

Proposer should be aware that if a Court determines that the Proposer’s information is not proprietary and/or confidential, the District will be required to disclose such information pursuant to a public records request. In such cases, Proposer understands and agrees that the District shall comply with the Court’s determination and Proposer shall not hold District liable for any costs, damages or claims whatsoever related to releasing the information.

This is the *only notice* that will be given to the Proposer regarding the Proposer’s responsibility to clearly identify its proprietary and/or confidential information. If a public records request is submitted to the District and the Proposer did not clearly identify its proprietary and/or confidential information at the time their Proposal is submitted, the District will not provide Proposer with any subsequent notice or opportunity to identify proprietary and/or confidential documents or information.

Please sign and include this statement with your proposal. I hereby certify that I acknowledge acceptance of the terms above and that I have:

- Determined that no documents or information contained within this proposal are proprietary and/or confidential in nature.
- Clearly identified specific documents or information that are deemed to be proprietary and/or confidential and have justified the reason for the proprietary status of any identified documents or information contained herein.

Printed Name of Authorized Individual

Name of Submitting Organization

Signature of Authorized Individual

Date

³ MARICOPA COUNTY SPECIAL HEALTH CARE DISTRICT (MCSHCD) PROCUREMENT CODE, ARTICLE 1, GENERAL PROVISIONS, PARAGRAPH HS-104, CONFIDENTIAL OR PROPRIETARY INFORMATION.

⁴ MARICOPA COUNTY SPECIAL HEALTH CARE DISTRICT (MCSHCD) PROCUREMENT CODE, ARTICLE 1, GENERAL PROVISIONS, PARAGRAPH HS-104(C).



**ATTACHMENT F:
CONTRACTOR EMPLOYMENT RECORD VERIFICATION REQUIREMENT
90-20-150-RFQ**

**Maricopa County Special Health Care District, dba, Valleywise Health
Contractor Employment Record Verification Form and Employee Verification Worksheet**
Complete and return within 30 days of receipt or as specified in cover letter to:

**Valleywise Health
Contract Management
2601 E. Roosevelt St., 1st FL, Education Pavilion
Phoenix, AZ 85008**

A.R.S. § 41-4401 requires as a condition of your contract verification of compliance by the contractor and subcontractors with the Federal Immigration and Nationality Act (FINA), all other Federal immigration laws and regulations, and A.R.S. § 23-214 related to the immigration status of its employees.

By completing and signing this form and attached Employee Verification Worksheet the Contractor shall attest that it and all subcontractors performing work under the cited Valleywise Health contract meet all conditions contained herein. Failure to complete and submit this form and attached worksheet on or before the request date to the above cited address and/or the falsification of any information provided herein shall be considered a material breach of the contract.

Contract Number:		
Name (as listed in the contract):		
Address:		
City:	State:	Zip:

I hereby attest that:

1. The contractor complies with the Federal immigration and Nationality Act (FINA), all other Federal immigration laws and regulations, and A.R.S. § 23-214 related to the immigration status of those employees performing work under this contract.
2. All subcontractors performing work under this contract comply with the Federal immigration and Nationality Act (FINA), all other Federal immigration laws and regulations, and A.R.S. § 23-214 related to the immigration status of their employees; and
3. The contractor has identified all contractor and subcontractor employees who perform work under the contract on the attached Employee Verification Worksheet and has verified compliance with Federal Immigration and Nationality Act (FINA), all other Federal immigration laws and regulations, and A.R.S. § 23-214.

Signature of Contractor (Employer) or Authorized Designee:

Signature

Printed Name:

Title:

Date:

**ATTACHMENT G
90-20-150-RFQ**



**Maricopa County Special Health Care District
d.b.a.
Valleywise Health
2601 East Roosevelt Street, 1st Floor Education Pavilion
Phoenix, AZ 85008-6092
602.344.1497
602.344.1813 (Fax)**

BUSINESS ASSOCIATE AGREEMENT

This Agreement sets out the responsibilities and obligations of _____ (“Business Associate” or “Associate”) as a business associate of the Maricopa County Special Health Care District, d.b.a. Valleywise Health, a covered entity, under the Health Insurance Portability and Accountability Act (“HIPAA”), the Health Information Technology for Economic and Clinical Health (“HITECH”) Act, and pursuant to the Contract or Engagement Letter between Associate and Valleywise Health.

Valleywise Health may make available and/or transfer to Associate Protected Health Information (“PHI”) of individuals in conjunction with Services, which Associate will use or disclose only in accordance with this Agreement. Associate and Valleywise Health agree to the terms and conditions of this Agreement in order to comply with the use and handling of PHI under the HIPAA Standards for Privacy of Individually Identifiable Health Information, 45 C.F.R. Part 160 and Part 164, Subpart E (“Privacy Standards”) and the HIPAA Security Standards, 45 C.F.R. Part 160 and Part 164, Subpart C (“Security Standards”), both as amended from time to time. Unless otherwise provided, all capitalized terms in this Agreement will have the same meaning as provided under the Privacy Standards and Security Standards. Associate and Valleywise Health will comply with the terms of this Agreement for the duration of the Contract or Engagement Letter and for such other continuing periods as provided in this Agreement. Upon the compliance date of any final regulation or amendment to final regulation promulgated by the Secretary of Health and Human Services that affects Associate’s use or disclosure of PHI, the parties agree to take such reasonable action as is necessary to amend this Agreement in order for Valleywise Health to comply with such final regulation or amendment to final regulation.

Definitions for terms in this Agreement:

1. **Business Associate or Associate** means an entity that creates, receives, maintains or transmits PHI for a function or activity on behalf of a Covered Entity, regulated by Subchapter C of Title 45 of the Code of Federal Regulations. In addition, an Associate can be an entity that provides data transmission services to a Covered Entity, is more than a mere conduit of information, and allows a Covered Entity to access the maintained information in a manner beyond a random or infrequent basis. The terms “Business Associate”, “Associate” and “Contractor” are synonymous. Notwithstanding this definition, if Contractor does not have access to or create Protected Health Information under this Contract, Contractor is not an Associate, and the terms of this Agreement do not apply to Contractor.
2. **Contractors of Business Associate** means a person or an entity to whom an Associate delegates a function, activity, or service that the Associate has agreed to perform for a Covered Entity. A contractor of an Associate which creates, receives, maintains, or transmits personal health information on behalf of the business associate is itself a Business

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Associate and therefore will comply with the terms of this Agreement. For purposes of this Agreement the term "Contractor" includes the Contractor, its employees, its subcontractors and its agents.

3. **Protected Health Information ("PHI")** means the health information that is created or received by a Covered Entity; and relates to the physical condition, mental health or other health condition of an Individual, or to the provision of health care to the Individual (including but not limited to the payment for such health care); and identifies or can be used to identify the Individual as defined in 45 C.F.R. § 160.103.
4. **Individual** shall have the meaning set forth in 45 CFR §160.103, including a person who is the subject of the Protected Health Information, and shall include an individual or entity who qualifies as a personal, legal representative of the person, as the context requires.
5. **Privacy Rule** shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Parts 160 and 164, Subparts A and E, as may be amended, modified or superseded, from time to time.
6. **Security Rule** shall mean the Standards for Security of Individually Identifiable Electronic Health Information at 45 CFR Parts 160 and 164, Subparts A, C and E, as may be amended, modified or superseded, from time to time.
7. **Breach** shall mean the acquisition, access, use or disclosure of Protected Health Information in a manner not permitted by the HIPAA Privacy Rule, that compromises the security or privacy of the Protected Health Information as defined, and subject to the exception given to such term in 45 C.F.R. § 164.402.
8. **Breach Notification Rule** shall mean the interim final rule related to breach notification for unsecured protected health information at 45 C.F.R. Parts 160 and 164.
9. **Covered Entity** shall have the meaning given to such term in 45 C.F.R. § 160.103.
10. **Designated Record Set** shall have the meaning given to such term under the Privacy Rule at 45 C.F.R. § 164.501.
11. **Security Incident** shall have the meaning given to such phrase under the Security Rule at 45 C.F.R. § 164.304.
12. **Unsecured PHI** shall have the meaning given to such phrase under the Breach Notification Rule at 45 C.F.R. § 164.402.
13. **Electronic Protected Health Information or ePHI** shall have the same meaning given to such term under the Security Rule, including, but not limited to, 45 C.F.R. § 160.103.
14. **Electronic Media** shall have the same meaning given to such term in 45 C.F.R. § 160.103.
15. **Health Information Technology for Economic and Clinical Health (HITECH) Act**, as codified at 42 U.S.C. §§ 17921-17954.
16. **Secretary** shall mean the Secretary of the Department of Health and Human Services or his or her designee.

It is agreed by and between the parties that:

1. **Uses and Disclosures of Protected Health Information.** Associate will use and disclose PHI only for those purposes necessary to perform its duties, obligations and functions under the Contract, or as otherwise expressly permitted in this Agreement or as required by other law.
 - a. Associate will not use or further disclose any PHI in violation of this Agreement.
 - b. Associate may use PHI to perform data aggregation services as permitted by 45 C.F. R. § 164.504(e) (2) (i) (B).
 - c. Associate agrees that anytime it provides PHI received from Valleywise Health to a Contractor, its employees, subcontractor, or agent to perform Services for Valleywise Health, Associate first will enter into a contract with

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such Contractor, employees, subcontractor or agent that contains the same terms, conditions, and restrictions on the use and disclosure of PHI as contained in this Agreement.

- d. If Associate maintains a Designated Record Set, Valleywise Health will provide Associate with copies of applicable policies and procedures, which the Associate will comply with as related to an individual's right to access PHI; request an amendment to PHI; request confidential communications of PHI; or request an accounting of disclosures of PHI.
2. **Associate Use or Disclosure of Protected Health Information for its Own Purposes.** Associate may use or disclose PHI received from Valleywise Health for Associate's management and administration, or to carry out Associate's legal and contractual responsibilities. Associate may disclose PHI received from Valleywise Health to a third party for such purposes only if:
- a. The disclosure is required by law; or
 - b. Associate secures written assurance from the receiving party that the receiving party will: (i) hold the PHI confidentially; (ii) use or disclose the PHI only as required by law or for the purposes for which it was disclosed to the recipient; and (iii) notify the Associate of any breaches in the confidentiality of the PHI.
 - c. Associate may use and disclose de-identified health information, if (i) the use is disclosed to Valleywise Health and permitted by Valleywise Health in its sole discretion, (ii) that the de-identification is in compliance with 45 C.F.R. § 164.502(d), and (iii) the de-identified health information meets the standard and implementation specifications for de-identification under 45 C.F.R. § 164.514(a) and (b).
 - d. Associate shall use and disclose PHI only to the extent reasonably necessary to accomplish the intended purpose of such PHI.
3. **Safeguards.** Associate will implement and maintain appropriate safeguards to prevent any use or disclosure of PHI not otherwise permitted in this Agreement.
- a. Associate also will implement administrative, physical and technical safeguards to protect the confidentiality, integrity, and availability of any electronic protected health information ("e-PHI"), if any, that Associate creates, receives, maintains, and transmits on behalf of Valleywise Health.
 - b. Upon request of Valleywise Health, Associate will provide evidence to Valleywise Health that these safeguards are in place and are properly managed.
4. **Reports of Improper Use or Disclosure of Secure or Unsecure Protected Health Information and of Security Incidents and Breaches.** Associate will report in writing to Valleywise Health any use or disclosure of PHI, including any breach, not permitted by the contract between Associate and Valleywise Health within five (5) days of Associate's learning of such use, disclosure or breach or within five (5) days following the exercise of reasonable diligence would have known of the improper use, disclosure, or breach.
5. **Mitigation of potential harmful effects.** Associate shall mitigate all potential harmful effects of a use or disclosure of Protected Health Information by Business Associate in violation of the requirements of this Agreement. Immediately following the Associate's discovery of a Breach (or upon the Associate's reasonable belief that a Breach has occurred), Associate shall provide Valleywise Health with sufficient information to permit Valleywise Health to comply with the Breach notification requirements set forth at 45 C.F.R. §164.400 et seq.
- a. Specifically, if the following information is known to (or can be reasonably obtained by) the Associate, Associate will provide to Valleywise Health all available information that Valleywise Health is required to include in its notification to the individual pursuant to the Breach Notification Rule, including but not limited to:
 - i. contact information for individuals who were or who may have been impacted by the Breach (e.g., first and last name, mailing address, street address, phone number, email address);

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- ii. a brief description of the circumstances of the Breach, including the date of the Breach, the date of discovery of the Breach, and the identity of who accessed and received the Unsecured PHI;
 - iii. a description of the types of unsecured PHI involved in the Breach (e.g., names, social security number, date of birth, address(s), account numbers of any type, disability codes, diagnostic and/or billing codes and similar information);
 - iv. a brief description of what the Associate has done or is doing to investigate the Breach, mitigate harm to the individual impacted by the Breach, and protect against future Breaches; and
 - v. contact information for a liaison appointed by the Associate with whom Valleywise Health may ask questions and learn additional information concerning the Breach.
- b. Following a Breach, Associate will have a continuing duty to inform Valleywise Health of new information learned by Associate regarding the Breach, including but not limited to the information described in items (1) through (5), above.
- c. Associate also will report in writing to Valleywise Health any Security Incident (successful or unsuccessful) of which Associate becomes aware within five (5) business days of Associate learning of such use or disclosure.

Specifically, Associate will report to Valleywise Health any unauthorized access, use, disclosure, modification, or destruction of e-PHI or interference with system operations in an information system containing e-PHI of which Associate becomes aware, provided that:

- i. such reports will be provided only as frequently as the parties mutually agree, but no more than once per month; and
 - ii. if the definition of "Security Incident" under the Security Standards is amended to remove the requirement for reporting "unsuccessful" attempts to use, disclose, modify or destroy e-PHI, the portion of this Section 5 addressing the reporting of unsuccessful, unauthorized attempts will no longer apply as of the effective date of such amendment.
6. **Obligations Regarding Associate Personnel.** Associate will appropriately inform all of its employees, agents, representatives, members of its workforce, and Contractors, its employees, subcontractors, or agents of Associate ("Associate Personnel"), whose services may be used to satisfy Associate's obligations under the Contract and this Agreement of the terms of this Agreement. Associate represents and warrants that the Associate Personnel are under legal obligation to Associate, by contract or otherwise, sufficient to enable Associate to fully comply with the provisions of this Agreement. Associate will maintain a system of sanction for any Associate Personnel who violates this Agreement.
7. **Access to Protected Health Information.**
- a. **Valleywise Health Access.** Within five (5) business days of a request by Valleywise Health for access to PHI received from Valleywise Health, Associate will make requested PHI available to Valleywise Health.
 - b. **Patient Access.** If a Patient requests access to PHI directly from Associate, Associate will within five (5) business days forward such request in writing to Valleywise Health. Valleywise Health will be responsible for making all determinations regarding the grant or denial of a Patient's request for PHI and Associate will make no such determinations. Only Valleywise Health will release PHI to the Patient pursuant to such a request.
8. **Amendment of Protected Health Information.**
- a. **Valleywise Health Request.** Within five (5) business days of receiving a request from Valleywise Health to amend an individual's PHI received from Valleywise Health, Associate will provide such information to Valleywise Health for amendment. Alternatively, if Valleywise Health request includes specific information to be included in the PHI

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as an amendment, Associate will incorporate such amendment within five (5) business days of receipt of the Valleywise Health request.

- b. **Individual Request.** If an individual makes a request for amendment directly to Associate, Associate will forward within five business days such request in writing to Valleywise Health. Valleywise Health will be responsible for making all determinations regarding amendments to PHI and Associate will make no such determinations.

9. **Accounting of Disclosures; Requests for Disclosure.**

- a. **Disclosure Records.** Associate will keep a record of any disclosure of PHI received from Valleywise Health that Associate makes to its employees, subcontractors, and agents, or other third parties other than:
 - (1) Disclosures to health care providers to assist in the treatment of patients;
 - (2) Disclosures to others to assist Valleywise Health in paying claims;
 - (3) Disclosures to others to assist Valleywise Health in conducting its health care operations, as defined in 45 C.F.R. § 164.501; or
 - (4) Disclosures made pursuant to an individual's Authorization.

Associate will maintain this disclosure record for six (6) years from the termination of this Agreement.

Associate also agrees to maintain necessary and sufficient documentation of Disclosures of Protected Health Information as would be required for Valleywise Health to respond to a request by an individual for an accounting of Disclosures, in accordance with 45 CFR 164.528.

- b. **Data Regarding Disclosures.** For each disclosure for which it is required to keep a record under paragraph 8(a), Associate will record and maintain the following information:
 - (1) The date of disclosure;
 - (2) The name of the entity or person who received the PHI, and, the address of such entity or person, if known.
 - (3) A description of the PHI disclosed; and
 - (4) A brief statement of the purpose of the disclosure.
- c. **Provision to Valleywise Health.** Associate will provide to Valleywise Health its record of disclosures under paragraph 8(a), if any, within thirty days of each disclosure. Within five business days of receiving a notice from Valleywise Health of an individual's request for an accounting, Associate also will provide to Valleywise Health its disclosure record.
- d. **Patient Request to Associate.** If a Patient requests and accounting of disclosures directly from Associate, Associate will forward the request to Valleywise Health within five (5) business days of Associate's receipt of the request and will make its records of disclosures available to Valleywise Health as otherwise provided in this Section. Valleywise Health will be responsible to prepare and for delivery of the records of disclosure to the Patient. Associate will not provide an accounting of its disclosure directly to the Individual.

- 10. **Notice of Privacy Practices.** Valleywise Health shall provide Associate a copy of its Notice of Privacy Practices ("Notice") in accordance with 45 C.F.R. § 164.520 as well as any changes to the Notice. If the Valleywise Health Notice specifically affects Associate's use or disclosure of PHI, Valleywise Health shall inform Associate of the specific limitations. Associate shall abide by the limitations of the Valleywise Health Notice that affects its use or disclosure of PHI of which it has been specifically informed. Any use or disclosure permitted by this Agreement may be amended by changes to the Valleywise Health Notice if Valleywise Health specifically informs Associate of the amendment: provided, however, that the amended Notice shall not affect permitted uses and disclosures on which Associate relied prior to receiving notice of such amended Notice.

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11. Access to Books and Records.

- a. **Valleywise Health Access.** Associate will, within five (5) business days of Valleywise Health written request, make available during normal business hours at Associate's offices, all records, books, agreements, policies and procedures relating to the use or disclosure of PHI received from Valleywise Health for the purpose of allowing Valleywise Health or its agents or auditors to determine Associate's compliance with this Agreement.
- b. **Government Access.** Associate will make its internal practices, books, and records relating to the use and disclosure of PHI received from, or created or received by Associate on behalf of, Valleywise Health available to the Secretary of the Department of Health and Human Services to the extent required for determining compliance with the Privacy Standards. Notwithstanding this provision, no attorney-client, accountant-client or other legal privilege will be deemed waived by Associate or Valleywise Health as a result of this Section.

12. Termination. Valleywise Health may immediately terminate the Contract, if any and this Agreement upon written notice to Associate if Valleywise Health determines that the Associate or subcontractor(s) or agent(s) of Associate has breached a material term of this Agreement. Alternatively, Valleywise Health may elect to provide Associate with written notice of Associate's or subcontractor(s)' or agent(s)' of Associate breach of any term or condition of this Agreement and afford Associate the opportunity to cure the breach to the satisfaction of Valleywise Health within thirty (30) days of the date of such notice. If Associate fails to timely cure the breach, as determined by Valleywise Health at its sole discretion, Valleywise Health may terminate the Contract and this Agreement.

13. Return or Destruction of Protect Health Information.

- a. **Return of PHI; Destruction.** Within thirty (30) days of termination of the Contract or this Agreement, Associate will return to Valleywise Health all PHI received from Valleywise Health or created or received by Associate on behalf of Valleywise Health that Associate maintains in any form or format. Associate will not maintain or keep in any form or format any portion of such PHI. Alternatively, Associate may, upon Valleywise Health written consent, destroy all such PHI and provide written documentation of such destruction. The requirement to return or destroy such PHI will apply to all agents or subcontractors of Associate. Associate will be responsible for recovering any PHI from such agents or subcontractors. If Associate cannot obtain the PHI from any agent or subcontractor, Associate will so notify Valleywise Health and will require that such agents or subcontractors directly return PHI to Valleywise Health or otherwise destroy such PHI, subject to the terms of this Section.
- b. **Alternative Measures.** If Associate believes that returning or destroying PHI at the termination of the Contract or this Agreement is infeasible, it will provide written notice to Valleywise Health within five (5) business days of the effective date of termination of this Agreement. Such notice will set forth the circumstances that Associate believes makes the return or destruction of PHI infeasible and the alternative measures that Associate recommends for assuring the continued confidentiality and security of the PHI. Valleywise Health promptly will notify Associate of whether it agrees that the return or destruction of PHI is infeasible. If Valleywise Health agrees that return or destruction of PHI is infeasible, Associate agrees to extend all protections, limitations and restrictions of this Agreement to Associate's use or disclosure of PHI retained after termination of this Agreement and to limit further uses or disclosures to those purposes that make the return or destruction of the PHI infeasible. Any such extended protections, limitations and restrictions will apply to any agents or subcontractors of Associate for whom return, or destruction of PHI is determined by Valleywise Health to be infeasible. If Valleywise Health does not agree that the return or destruction of PHI from Associate or its agents or subcontractors is infeasible, Valleywise Health will provide Associate with written notice of its decision, and Associate, its agents and subcontractors will proceed with the return or destruction of the PHI pursuant to the terms of this Section within fifteen (15) days of the date of Valleywise Health notice.

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14. **Restrictions on Use or Disclosure of Protected Health Information.** If Valleywise Health advises Associate of any changes in, or restrictions to, the permitted use or disclosure of PHI received from Valleywise Health, Associate will restrict the use or disclosure of such PHI consistent with the Valleywise Health instructions.
15. **Mitigation Procedures.** Associate agrees to have procedures in place for mitigating, to the maximum extent practicable, any deleterious effect from the use or disclosure of PHI received from Valleywise Health in a manner contrary to this Agreement or the Privacy Standards.
16. **Compliance with the HITECH Act.** Associate will comply with the requirements of Title XII, Subtitle D of the Health Information Technology for Economic and Clinical Health (HITECH) Act, codified at 42 U.S.C. §§ 17921-17954, which are applicable to Associates, and will comply with all regulations issued by the Department of Health and Human Services (HHS) to implement these referenced statutes, as of the date by which Associates are required to comply with such referenced statutes and HHS regulations.
 - a. Associate will also comply with Section 13402 of the HITECH Act, codified at 42 U.S.C. § 17932, and with all regulations issued by HHS to implement this statute, as of the date by which Associates are required to comply with such referenced statutes and HHS regulations. Associate will make a report to the Valleywise Health of any breach of unsecured protected health information, as required by 42 U.S.C. § 17932(b), within five (5) business days of Associate's discovery of the breach. Associate will indemnify Valleywise Health for any reasonable expenses Valleywise Health incurs in notifying individuals of a breach caused by Associate or its subcontractors or agents.
17. **Miscellaneous.**
 - a. **Compliance with Laws.** The Parties acknowledge that state and federal laws relating to electronic data security and privacy are rapidly evolving and that amendment of this Agreement may be required to ensure compliance with such developments. Should such developments occur, and upon either Party's good faith request, the other Party agrees to enter good faith negotiations concerning the terms of an amendment to this Agreement.
 - b. **Construction of Terms.** The terms of this Agreement will be construed in light of any applicable interpretation or guidance on the Privacy Standards and Security Standards issued by the Department of Health and Human Services and other applicable state or federal laws, rules and regulations as amended from time to time.
 - c. **No Third Party Beneficiaries.** Nothing in this Agreement will confer upon any person other than the parties and their respective successors or assigns, any rights, remedies, obligations, or liabilities, whatsoever.
 - d. **Assignment of Rights and Delegation of Duties.** This Agreement is binding upon and inures to the benefit of the Parties hereto and their respective successors and permitted assigns. However, neither Party may assign any of its rights or delegate any of its obligations under this Agreement without prior written consent of the other Party, which consent shall not be unreasonable withheld or delayed. Notwithstanding any provisions to the contrary, however, Valleywise Health retains the right to assign or delegate any of its rights and obligations hereunder to any of its wholly owned subsidiaries, affiliates or successor companies. Assignments made in violation of this provision are null and void.
 - e. **No Waiver.** Failure or delay on the part of either Party to exercise any right, power, privilege or remedy hereunder shall not constitute a waiver thereof. No provision of this Agreement may be waived by either Party except by a writing signed by an authorized representative of the Party making the waiver.
 - f. **Severability.** The provisions of this Agreement shall be severable, and if any provision of this Agreement shall be held or declared to be illegal, invalid or unenforceable, the remainder of this Agreement shall continue in full force and effect as though such illegal, invalid or unenforceable provision had not been contained herein.

